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Supreme Court of the United States

OCTOBER TERM, 1956

No. 71

MURIEL MAY SCOTT, nee PLUMMER, PETITIONER

vs.

IMMIGRATION AND NATURALIZATION SERVICE

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR CERTIORARI FILED DECEMBER 14, 1956
CERTIORARI GRANTED MARCH 11, 1957

Supreme Court of the United States

OCTOBER TERM, 1965

No. 1137

MURIEL MAY SCOTT, nee PLUMMER, PETITIONER

vs.

IMMIGRATION AND NATURALIZATION SERVICE

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

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IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

#27826

MURIEL MAY SCOTT, nee PLUMMER, PETITIONER

against

IMMIGRATION AND NATURALIZATION SERVICE, RESPONDENT

PETITIONER'S APPENDIX—Filed April 26, 1965

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* * * *

[fol. 1]

BEFORE THE
IMMIGRATION AND NATURALIZATION SERVICE
UNITED STATES DEPARTMENT OF JUSTICE

In Deportation Proceedings under Section 242 of the Immigration and Nationality Act

File No. A-11 545 622

UNITED STATES OF AMERICA:

In the Matter of

SCOTT, MURIEL MAY nee PLUMMER, Respondent.

ORDER TO SHOW CAUSE AND NOTICE OF HEARING—
January 12, 1962

To: MURIEL MAY SCOTT
(name)
1051 Tiffany Street, Apt. 4-B, Bronx, 59, New York
(address)

UPON inquiry conducted by the Immigration and Naturalization Service, it is alleged that:

1. You are not a citizen or national of the United States;
2. You are a native of Jamaica, the West Indies and a citizen of Great Britain;
3. You last entered the United States at New York, New York on or about August 6, 1958 (date);

Registered and fingerprinted under Immigration and Nationality Act at New York on 1-12-62

See Continuation Sheet attached hereto and made a part hereof.

AND on the basis of the foregoing allegations, it is charged that you are subject to deportation pursuant to the following provision(s) of law:

See Continuation Sheet attached hereto and made a part hereof.

2/6/62

WHEREFORE, YOU ARE ORDERED to appear for hearing before a Special Inquiry Officer of the Immigration and Naturalization Service of the United States Department of Justice at 20 West Broadway, New York City; 14 fl., on January 19, 1962 at 8:45 a.m., and show cause why you should not be deported from the United States on the charge(s) set forth above.

Dated: January 12, 1962

IMMIGRATION AND NATURALIZATION SERVICE

/s/ Illegible
(signature and title of issuing officer)

Assistant District Director for Investigations
New York, New York
(City and State)

(over)

[fol. 2] CONTINUATION SHEET

A-11 545 622

SCOTT, MURIEL MAY nee PLUMMER

4. You were then admitted for permanent residence with a nonquota immigrant visa issued to you as the wife of a person known as EDWARD LEE SCOTT, a citizen of the United States.
5. You entered into a marriage ceremony with the said EDWARD LEE SCOTT on or about December 24, 1957 with the understanding that it was to be a marriage in name only, solely for the purpose of qualifying for a nonquota immigrant visa.
6. At the time you entered into the marriage ceremony with the said EDWARD LEE SCOTT you had no intention of establishing a bona fide marital relationship with him.
7. You have not established a bona fide marital relationship with the said EDWARD LEE SCOTT.

And on the basis of the foregoing allegations, it is charged that you are subject to deportation pursuant to the following provision(s) of law:

Section 241(a)(1) of the Immigration and Nationality Act, in that, at time of entry you were within one or more of the classes of aliens excludable by the law existing at the time of such entry, to wit, aliens who are not nonquota immigrants as specified in the immigrant visa, under Section 211(a)(3) of the Act.

[fol. 3]

BEFORE THE
IMMIGRATION AND NATURALIZATION SERVICE
UNITED STATES DEPARTMENT OF JUSTICE

File A-11 545 622 - New York, N. Y.

IN DEPORTATION PROCEEDINGS

In the Matter of
MURIEL MAY SCOTT nee PLUMMER
Respondent

CHARGE:

I & N Act—Section 241(a)(1), excludable at time of entry—alien not nonquota as specified in visa under Section 211(a)(3) of the Act

APPLICATION: Voluntary Departure

IN BEHALF OF RESPONDENT:

Benjamin Pesikoff, Esq.
3513 Broadway
New York, N. Y.

IN BEHALF OR THE SERVICE:

Clara Binder
Examining Officer
New York, N. Y.

DECISION OF THE SPECIAL INQUIRY OFFICER—
February 28, 1962

The respondent is a 26-year-old female alien, a native of Jamaica, The West Indies, and a citizen of Great

Britain, who last entered the United States at the port of New York, N.Y., on August 6, 1958, at which time she was admitted in possession of a nonquota immigrant visa issued to her on July 24, 1958, as the wife of a citizen of the United States. The immigrant visa in question shows that it was issued as the result of a visa petition approved February 26, 1958, and the visa contains a [fol. 4] marriage certificate showing the marriage on December 24, 1957 between Muriel May Plummer and Edward Lee Scott, in Jamaica.

It is the contention of the Immigration and Naturalization Service that the respondent entered into the marriage ceremony with Edward Lee Scott, December 24, 1957, with the understanding that it was to be a marriage in name only, solely for the purpose of qualifying for a nonquota immigrant visa; and that at the time the respondent entered into such marriage ceremony, she had no intention of establishing a bona fide marital relationship with him, and has not established any such bona fide marital relationship.

The Government's case rests upon two records of sworn statement: one taken on October 19, 1961, and the second on November 8, 1961. In the course of this first record of sworn statement the respondent admitted facts establishing that she is an alien, and that she was married on only one occasion on December 24, 1957 to Edward Lee Scott. The respondent admitted that the wedding had been arranged for her by a man named Dudley Goulbourne, who was actually present at the time the wedding took place in Jamaica, that she never had marital or sexual relations with the man she married, and that following the marriage ceremony on December 24, 1957, she never saw Edward Lee Scott again. She admitted that she had never corresponded with the man Scott before she met him, nor has she corresponded with him at any time after the marriage. She acknowledged that her visa application indicated that she was proceeding to Edward L. Scott, husband, at 1796 St. Johns Place, Brooklyn, New York, but that her husband, Scott, was [fol. 5] not living there at that time, nor to her knowledge has he ever lived at that address. Subsequent to her

arrival in the United States, she went to live with her sister, Gloria, at the address in question and had continued to live there until the respondent moved from that address about a year later. She admitted that she had received a letter from her sister, advising her that a man was coming to Jamaica to go through a marriage ceremony with her, and that she did not know the name of the man who was coming to Jamaica to marry her before he actually arrived in Jamaica. She knew only of the identity of Mr. Goulbourne, the man who was present at her marriage.

In the course of her statement of October 19, 1961, however, the respondent denied any understanding at the time of her marriage that she was not to live with Mr. Scott in a marital relationship, and denied knowing that at the time she went through with the marriage ceremony that it was to be a sham or "paper" marriage only.

The record also contains a record of sworn statement taken on November 8, 1961, at which time both the respondent and her sister, Gloria Slade, were present. In the course of this statement the respondent was first shown a complete transcript of the statement taken from her on October 19, 1961, and she was asked to read it, initial each page, and sign the last page thereof, if it was a true transcript of her testimony. The respondent complied with this request. She was also asked whether every statement given by her on October 19, 1961 was true, and answered that this was so.

[fol. 6] Investigator Samuel Steckler who took the sworn statement of November 8, 1961, as well as the statement of October 19, 1961, then proceeded to question the respondent's sister, Gloria Slade, under oath. Gloria Slade was first asked to examine two prior sworn statements taken from her, one on April 30, 1959, and the other on October 18, 1961. After examining the statements in question, she stated that she had told the truth in each of these prior statements. In particular, she admitted that her previous testimony in those statements to the effect that arrangements were made for the marriage of her sister Muriel, the respondent, by one Dudley Goulbourne for $500. She also confirmed her prior testimony that it

was understood before the marriage that the respondent was not to live with the man she married. She stated also that her sister, the respondent, knew of this understanding and arrangement. She acknowledged that the respondent never lived with the man she married, never had marital relations with him, but from the time of her arrival in the United States has continuously lived with Gloria Slade. The respondent's sister testified that the marriage which was contracted between the respondent and Mr. Scott was solely for the purpose of qualifying the respondent for a nonquota immigrant visa. She stated also that her sister never had any intention of establishing a bona fide marital relationship with Mr. Scott. She admitted placing her own money into a bank account in the Central Savings Bank in a joint account showing the respondent's name and Mr. Scott's name but that none of the money belonged to Mr. Scott and that she removed the money from the bank account in June of 1958. She testified that Edward Lee Scott never lived at 1796 St. [fol. 7] Johns Place. After the respondent's sister had testified in her presence as outlined above, the respondent herself was examined and the following questions and answers are recorded in Exhibit 4 of the record at Page 7:

"Q Isn't it true that at the moment that you married that man, who called himself Edward Lee Scott, that you knew before the marriage that you would never live with him?

A Yes, I knew that I wasn't going to live with him.

Q And when you applied for your immigration visa at the American Consulate at Kingston, Jamaica, isn't it true that you knew at that time that you were not coming to the man you married who called himself Edward Lee Scott?

A Yes.

Q Then are you now changing your statement of October 19, 1961 when you did not admit that?

A Yes, I am changing my statement now. Yes, I knew ahead of time before the marriage that I wasn't supposed to live with him.

Q And isn't it true that you went through that marriage ceremony for only one purpose and reason—to show the Consul that you were married to a United States citizen—to get a permanent visa?
A Yes."

On January 12, 1962, the respondent and her sister both signed a concluding statement reciting as follows:

"I have read the foregoing eight (8) pages of my statement dated November 8, 1961. This is a correct transcript of the testimony that took place on November 8, 1961. The statements I gave are the truth."

It will be noted that although the respondent appears to have been represented by present attorney at the time that each of these statements were taken, and she was specifically asked whether she desired to proceed with [fol. 8] her statement without the presence of her lawyer, she answered that she was willing to go ahead without his presence.

Counsel in his cross-examination of Mr. Steckler attempted to imply that there was some element of duress connected with the taking of these sworn statements. The implication which the respondent's attorney tried to make was that Mr. Stickler was interested in the prosecution of Mr. Goulbourne for his part in this affair and was disturbed by the fact that the respondent has declined to sign a statement of May 14, 1959. Accordingly, Counsel would have me conclude that perhaps Mr. Steckler was over diligent and anxious to have the respondent make a statement implicating Mr. Goulbourne so that she would not refuse to be a witness in his prosecution. However, Counsel himself has conceded that by October 19, 1961, Mr. Goulbourne had already been convicted and sentenced. Obviously then, no such implication can or should be drawn as to the taking of the statement. Mr. Steckler himself has specifically denied threatening the respondent with criminal prosecution for participation in a conspriacy with Mr. Goulbourne and, in fact, if the two statements are examined carefully, it would appear that

Mr. Steckler was almost overly solicitous of the respondent. At page 5 of the statement of October 19, 1961, he confronted the respondent with the fact that she had previously made a statement on May 14, 1959, which apparently she refused to sign upon the advice of counsel, which was directly contradicted by the testimony she was giving on October 19, 1961. Nevertheless, Mr. Steckler accepted the respondent's mere statment that she did not remember the statement of May 14, 1959, and that she was upset and frightened at the time that statement was taken.

[fol. 9] Furthermore, when the statement of November 8, 1961 was taken and the questions and answers quoted above were given, Mr. Steckler did not even point out to the respondent that she had in effect testified falsely in her statement of October 19, 1961, but merely commented that she was now changing her prior statement.

Furthermore, although Counsel has attempted to inject this note of duress into the taking of each of the statements, he has carefully avoided questioning the respondent herself as to the circumstances under which these statements were taken, or as to whether there were any elements of duress or involuntariness in such statements. Moreover, respondent's counsel has not actually placed in issue any of the relevant material contained in the statements. It is true that he made one tentative effort in this direction by asking the respondent whether at the time she married Mr. Scott she knew that she was not going to live with him, and she answered in the negative. However, when the Examining Officer attempted to cross-examine her in this regard, Counsel advised his client not to answer the question on the ground that such answer might tend to degrade or incriminate her. Under the circumstances, the respondent's testimony, being a completely self-serving declaration and in direct contradiction to her recorded testimony which is of record, is not worthy of credence.

I find therefore on the basis of the record before me that the allegations of fact contained in the order to show cause are amply sustained by the evidence of record. It may be noted in passing that even if the element of [fol. 10] fraud were not present, it is likely that the

respondent's marriage to Edward Lee Scott was an invalid one because Mr. Scott had previously entered into at least one such previous marriage which was still in effect. However, this evidence was not formally presented by the Examining Officer and can be gathered only by inference from the statements of record. Accordingly, I will make no finding with regard to the validity of the respondent's marriage which rests on the marital status of her husband at the time of the respondent's marriage to him.

The law is clear that under the circumstances of the respondent's marriage on December 24, 1957, such marriage is completely void. In the case of *United States* v. *Rubenstein*, 151 F. 2d 915 (C.C.A. 2, 1945), Cert. den. 326 U.S. 766, the court was confronted with a situation remarkably similar to the instant one. A marriage had been entered into solely for immigration purposes with no intent of consummation and the wife, who was the beneficiary of the marriage, was to pay the husband $200 and after six months there was to be a divorce and another $200 paid. In discussing the effects of this arrangement, the Court said:

> "But, that aside, Stitz and Sandler were never married at all. Mutual consent is necessary to every contract; and no matter what forms or ceremonies the parties may go through indicating the contrary, they do not contract if they do not in fact assent, which may always be proved. (Citations omitted.) Marriage is no exception to this rule; a marriage in ject is not a marriage at all. This is the law of New Jersey as well as elsewhere. (Citations omitted.) It is quite true that a marriage without subsequent consummation will be valid; but if the spouses agree to a marriage only for the sake of representing it as such to the outside world and with the understanding that they will put an end to it as soon as it has served its purpose to deceive; they have never
> [fol. 11] really agreed to be married at all. They must assent to enter into the relation as it is ordinarily understood, and it is not ordinarily understood as merely a pretense, or cover, to deceive others."

It is clear that at the time the respondent married Edward Lee Scott it was with the understanding that it was to be a marriage in name only and solely to enable to respondent to qualify for a nonquota immigrant visa, and that she had no intention of establishing a bona fide marital relationship with him. The subsequent facts are ample corroboration of the original intent of the respondent, since she never even saw the husband subsequent to the marriage and, of course, never lived with him.

In view of the fact that the respondent was not validly married to a citizen of the United States at the time she obtained her nonquota visa, she was not entitled to the nonquota status which was accorded her and she is accordingly deportable on the charge contained in the order to show cause.

Obviously also, this is a case where is would be completely inappropriate to exercise the discretion presiding in the Attorney General under Section 211(c) of the Immigration and Nationality Act, in view of the deliberate nature of the fraud.

The respondent has applied for the privilege of voluntary departure from the United States in lieu of deportation. She has testified that she has never been arrested or had any trouble with the police, and there is no evidence of record other than the material already discussed [fol. 12] indicating that she has been other than a person of good moral character during the past five years. The respondent, since her arrival in the United States, has had sexual relations with a man other than Mr. Scott, and as a result of such relations, a child was born to her in the City of New York on January 17, 1962. The Government has acknowledged that the respondent and her sister gave full information regarding the operation of the conspiracy which succeeded in bringing the respondent to the United States as a nonquota immigrant, and that although they were not required to testify in the prosecution of the principal conspirator, they were available for such testimony. Probably as a result of his awareness of their readiness, Mr. Goulbourne pleaded guilty and thereby made their testimony unnecessary.

It is true that the respondent within the past five years has admitted perpetrating a fraud upon the Government of the United States for the purpose of obtaining an immigrant visa. It is equally true, however, that the Immigration and Nationality Act in Section 212(h) specifically forgives such fraud and the admission of the commission of perjury in connection with such fraud in the case of a person who is the parent of a United States citizen. The respondent is the parent of a United States citizen, as that term is defined in Section 101 of the Immigration and Nationality Act, and it appears likely that she will be married to the father of her child, also a United States citizen, before her departure from the United States. Similarly, in Section 241(f) a similar consideration is shown to the parent of a United States [fol. 13] citizen child insofar as deportability is concerned where entry into the United States was procured by fraud or misrepresentation. It is true that Section 205(c) of the Immigration and Nationality Act was amended by the Act of September 26, 1961 (75 Stat. 650) to provide that no visa petition shall be approved for an alien who previously has been accorded, by reason of a marriage determined by the Attorney General to have been entered into for the purpose of evading the immigration laws, a nonquota status under Section 101(a)(27)(A) as the spouse of a citizen of the United States.

It is true that in the statement of October 19, 1961, the respondent was somewhat reluctant to admit all of the circumstances of her case. Nevertheless on May 14, 1959, she had given all the facts relating to the conspiracy, but had simply refused to sign the statement on the advice of counsel. When she was asked whether she had made such a statement and the facts contained therein were enumerated to her, she stated that she thought she remembered making such a statement but did not quite remember. Under the circumstances, I do not believe that her testimony on October 19, 1961 constituted false testimony within the meaning of Section 101(f) of the Immigration and Nationality Act. Even if it did, by reason of the short period of time elapsing between October 19, 1961, and by reason of the fact that the respondent testified

truthfully on November 8, 1961, the first occasion apparently upon which she was confronted with her prior testimony in written form, I would be inclined to consider her action on the latter occasion a sufficiently prompt recantation to remove her from the category of one who has given false testimony.

[fol. 14] I have had the opportunity of examining the demeanor and reactions of the respondent during a hearing that lasted more than six hours. The conclusion that I reached from my observation is that the respondent is a nervous, weak individual who is readily moved to any course of action suggested to her by a stronger personality. I believe that the moving spirit in this conspiracy was her sister Gloria, who initiated the entire matter, and who made all the necessary arrangements. Although the respondent is not blameless, I do not believe that she was more than a passive participant in the entitre affair.

Accordingly, I find her to be a person of good moral character, and the requested relief will be granted as a matter of administrative discretion.

he respondent has indicated that if ordered deported she desires to be sent to Jamaica, The West Indies.

ORDER: IT IS ORDERED that in lieu of an order of deportation, the respondent be granted voluntary departure without expense to the Government within such time and under such conditions as the District Director shall direct.

IT IS FURTHER ORDERED that if the respondent fails to depart when and as required, the privilege of voluntary departure shall be withdrawn without further notice or proceedings, and the following order shall thereupon become immediately effective: The respondent shall be deported from the United States to Jamaica, West Jamaica, West Indies, on the charge contained in the order to show cause.

/s/ Ira Fieldsteel
IRA FIELDSTEEL
Special Inquiry Officer

[fol. 15] BEFORE THE
BOARD OF IMMIGRATION APPEALS
U. S. DEPARTMENT OF JUSTICE

File: A-11545622—New York

In re: MURIEL MAY SCOTT nee PLUMMER

IN DEPORTATION PROCEEDINGS

APPEAL

ORAL ARGUMENT: May 14, 1962

On behalf of respondent:

Benjamin Pesikoff, Esq.
3513 Broadway
New York 31, New York

On behalf of I&N Service:

R. A. Vielhaber, Esq.

CHARGES:

Order: Sec. 241(a)(1), Immigration and Nationality Act [8 USC 1251(a)(1)]—Excludable at entry under 8 USC 1181(a)(3)—Not nonquota immigrant as specified in visa

Lodged: None

APPLICATION: Termination of proceedings

DECISION—August 14, 1962

This case is before us on appeal from a decision of a special inquiry officer granting voluntary departure and directing that the alien be deported if she fails to depart voluntarily.

The respondent is a 26-year-old female, native of the West Indies and British subject, who last entered the United States on August 6, 1958 at which time she was admitted for permanent residence as a nonquota immigrant. She was accorded nonquota status on the basis of

her marriage to a United States citizen on December 24, 1957. The special inquiry officer found that this marriage was completely void, and he concluded that the respondent was deportable on the charge stated above because, at the time of entry, she was a quota immigrant and not a nonquota immigrant as specified in her immigrant visa. The [fol. 16] sole issue to be determined is whether the respondent is deportable on the charge stated above.

We have carefully reviewed the entire record. The respondent was questioned on October 19, 1961 (Ex. 2) and she and her sister, Gloria Slade, were questioned on November 8, 1961 (Ex. 4). Considering these statements and the testimony at the hearing, we find that the facts are as follows. Gloria Slade arranged through one Goldbourne for the marriage of the respondent to a United States citizen and agreed to pay Goldbourne $500. Two hundred dollars was actually paid. Goldbourne took one Lloyd to Jamaica, West Indies, who, using the name Edward Lee Scott, married the respondent the following day. The respondent had not seen him before that and she has not seen him since the marriage. They never had sexual intercourse and it was understood by the parties that the marriage was not to be consummated but was for the sole purpose of enabling the respondent to secure nonquota status.

Counsel states that the respondent is an uneducated domestic. He contends that her statements (Exs. 2 and 4) should not have been received in evidence and claims that she was deprived of a right guaranteed by Section 6(a) of the Administrative Procedure Act [5 USC 1005 (a)] which provides that any person compelled to appear in person before a representative of any agency shall have the right to be accompanied, represented and advised by counsel. Investigator Steckler, before whom the statements were made, was a Government witness at the hearing. A file copy of a letter to the respondent on October 12, 1961, requesting her to appear on October 19, was presented by Mr. Steckler (p. 13) and it shows that a copy was forwarded to counsel. Counsel stated that he did not receive the letter or does not recall receiving it. The statements of October 19 and November 8,

1961 show that on each occasion the respondent stated that she was willing to make the statement without her attorney being present. Under the circumstances, we consider it unnecessary to pass upon the question of whether 5 USC 1005(a) has any applicability to statements which were made prior to the institution of deportation proceedings.

[fol. 17] Counsel also asserts that the statements were made under a promise of immunity but the record contains no evidence whatever to support this assertion. The examining officer asked the respondent whether she was at the New York office on October 19, 1961, but she refused to answer on the advice of counsel and the latter did not question her concerning the circumstances surrounding the making of the statements. At the commencement of each statement, Mr. Steckler had informed the respondent concerning his official position and that any statement was to be made voluntarily and could be used by the Government in any proceeding instituted against her or any other person and she stated that she was willing to make a voluntary statement under these conditions. Mr. Steckler was cross-examined by counsel at length concerning the statement of October 19, 1961 (pp. 13-56), and we are convinced from this record that both statements were made voluntarily and that they were not made under duress or as the result of any promise of immunity. 8 CFR 242.14(c) provides that the special inquiry officer may receive in evidence any relevant oral or written statement previously made by the respondent, and we hold that the respondent's statements of October 19 and November 8, 1961 was properly received in evidence.

Our findings above concerning the facts in this case are based primarily on the respondent's admissions in her two statements (Exs. 2 and 4). At the hearing, counsel did not question the respondent concerning the accuracy or inaccuracy of the statements in Exhibits 2 and 4 except that he did ask her whether at the time of the marriage she felt she was going to live with Scott (Lloyd) as husband and wife. She answered this question affirmatively and also stated that the first time she believed

otherwise was after she came to the United States (p. 89). However, when the examining officer attempted to cross-examine the respondent along this line, she indicated that she did not wish to answer the questions.

The remaining contention of counsel is that the deportation proceeding should be terminated because of the provisions of the "1957 statute" and "241(f)". These references, although inadequate, relate to Section 7 of the [fol. 18] Act of September 11, 1957 [8 USC 1251a] and Section 241(f) of the Immigration and Nationality Act as amended September 26, 1961 [75 Stat. 655; 8 USC 1251(f)]. Section 7 of the Act of September 11, 1957 was repealed by Section 24(a)(3) of the Act of September 26, 1961 [75 Stat. 657], and we will, therefore, consider the respondent's case under 8 USC 1251(f). She claims to be within its purview as the parent of a United States citizen, having testified that a child was born to her in New York City on January 17, 1962 (pp. 83-85). Lloyd (or Scott) is not the father of the child.

In the case of an alien who is the parent of a United States citizen and who was otherwise admissible at the time of entry, 8 USC 1251(f) makes inapplicable the provisions relating to deportation on the ground of excludability for having procured a visa or entry into the United States by fraud or misrepresentation. Counsel asserts that, if this statutory provision was intended to waive only an alien's excludability under 8 USC 1182(a)(19), Congress could have referred specifically to that section instead of employing the language which was used. However, the Service does not contend that 8 USC 1251(f) is limited to aliens who were excludable under 8 USC 1182(a)(19), and we have specifically held that its predecessor (Section 7 of the Act of September 11, 1957) comprehended aliens not precisely within its terms, that is, aliens who were not deportable under 8 USC 1251(a) and aliens who were not excludable at the time of entry. *Matter of S-*, 7 I&N Dec. 715 (1958).

The Service did not charge the respondent with being deportable on the ground that she was excludable at the time of entry under 8 USC 1182(a)(19) and we need not, therefore, determine her deportability on that charge.

If she had been found deportable on that charge, however, she would still not be within the purview of 8 USC 1251(f) unless she was "otherwise admissible at the time of entry" as required by that statutory provision. The respondent was not otherwise admissible at the time of entry because she was actually a quota immigrant and entered as a nonquota immigrant. We previously [fol. 19] held that proceedings could not be terminated pursuant to Section 7 of the Act of September 11, 1957 under such circumstances. *Matter of D'O-*, 8 I&N Dec. 215 (1958).

On page 3 of his brief, counsel stated: "The only thing in the case that makes this alien nonquota and within the scope of Section 211(a)(3) is that by using the fraud, the visa was nullified", and he also said that the respondent was in every sense nonquota but for the fraud. These statements are somewhat ambiguous and we consider it appropriate to clarify the matter. The respondent's immigrant visa (Ex. 3) shows that she claimed to be a nonquota immigrant as the wife of Edward Scott, a United States citizen. If the marriage is disregarded, however, she was a quota immigrant by reason of her birth in the West Indies and the provisions of paragraphs (27)(C) and (32) of 8 USC 1101(a). While counsel apparently contends that the visa was invalid as having been procured by fraud, the Service did not charge the respondent with deportability on that ground but only on the ground that she was excludable under Section 211(a)(3) of the Act [8 USC 1181(a)(3)] because her visa stated that she was a nonquota immigrant whereas she was actually a quota immigrant. In other words, she evaded the quota restrictions by securing entry as a nonquota immigrant. As we stated in *Matter of D'O-*, supra, there is nothing in the history of Section 7 of the Act of September 11, 1957 which would indicate that it was the intention of Congress to remove the careful protection which had been built into the immigration laws regarding quotas.

The special inquiry officer found (decision, p. 9) that the respondent had married Lloyd (or Scott) with the understanding that it was to be a marriage in name

only and solely for the purpose of enabling the respondent to qualify for a nonquota immigrant visa; that she had no intention of establishing a bona fide marital relationship with him; and that she was not entitled to nonquota status because she had not validly married a citizen of the United States. Counsel has not specifically claimed that the marriage was valid and apparently he concedes that, as a result of the marriage, the visa [fol. 20] was obtained by fraud. A case entirely analogous to that of the respondent is *Matter of M-*, 8 I&N Dec. 217 (1958), in which we sustained a deportation charge under Section 241(a)(1) of the Immigration and Nationality Act on the ground that the alien was not a nonquota immigrant as specified in his visa, and we relied on *Lutwak* v. *United States*, 344 U.S. 604 (1953) and *United States* v. *Rubenstein*, 151 F. 2d 915 (2nd Cir. 1945). That case is controlling as to this respondent. Accordingly, her appeal will be dismissed.

ORDER: It is ordered that the appeal be and the same is hereby dismissed.

Chairman

[fol. 21]

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

* * * *

PETITION FOR JUDICIAL REVIEW OF ADMINISTRATIVE AGENCY ACTION—Filed October 4, 1962

TO THE HONORABLE THE JUDGES OF THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT.

The petition of MURIEL MAY SCOTT respectfully shows to this Court as follows:

1. Petitioner seeks review of an order of the Attorney General, made through his delegatees, declaring that she is unlawfully in the United States and deportable there-

from, and directing that she be deported from the United States if she failed to depart voluntarily within a time set by him.

2. This Court's jurisdiction arises under the provision of 8 U.S.C. Section 1105; and the venue is with this Court because the deportation proceedings were conducted before a special inquiry officer within the Circuit and because petitioner resides within this Circuit.

3. The petitioner is an alien, a native of the West Indies and a British subject, who was admitted to the United States as a lawful permanent resident on August [fol. 22] 6, 1958. Her admission was as a nonquota immigrant, such status having been accorded her on the basis of her marriage to a United States citizen. At a deportation hearing, a special inquiry officer of the respondent found that the marriage was void for immigration purposes because, he found, the marriage was not bona fide but was entered into for the sole purpose of enabling petitioner to qualify for nonquota status. She was, therefore, found to be deportable under 8 U.S.C. Section 1251(a)(1) as a person excludable at the time of here entry, to wit, as a person not a nonquota immigrant as specified in her visa. This marriage has not been disolved. The petitioner is the parent of a United States citizen child who is not, however, a child of that marriage.

Relief is sought on the ground that this decision was erroneous in fact and in law. Specifically, petitioner sets forth the following: (a) the respondent erred in failing to terminate the proceedings and hold the petitioner not to be deportable by virtue of the provisions of 8 U.S.C. Section 1251(f) as amended September 26, 1961. (b) The finding that the marriage was void was based upon records of sworn statements allegedly made by petitioner prior to the hearing, which records were improperly introduced into evidence. They were obtained in violation of petitioner's right to counsel under 5, U.S.C. Section 1005(a); they were obtained under conditions amounting to legal duress; their use at the hearing was in violation of petitioner's rights to due process of law under the Fifth Amendment to the United States Constitution. [fol. 23] (c) The order sought to be reviewed was not

based upon reasonable, substantial and probative evidence as required by 8 U.S.C. Section 1252(a); the said order was also contrary to the weight of the evidence.

4. The order of the special inquiry officer was made February 28, 1962 and is attached hereto as Exhibit "A". The order of the Board of Immigration Appeals dismissing the administrative appeal was made August 4, 1962 and is attached hereto as Exhibit "B"; the order of the Board of Immigration Appeals denying reconsideration made September 12, 1962 and is attached hereto as Exhibit "C". The petitioner has exhausted all administrative avenues of relief.

5. The validity of the order sought to be reviewed has never been adjudicated by this or any other Court or Judge thereof.

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By: _____

[fols. 24-44] * * *

[fol. 45]

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

No. 502—September Term, 1964.

Argued May 27, 1965

Docket No. 27826

MURIEL MAY SCOTT, *née* PLUMMER, PETITIONER

v.

IMMIGRATION AND NATURALIZATION SERVICE, RESPONDENT

Before:

LUMBARD, *Chief Judge*,

SMITH and KAUFMAN, *Circuit Judges.*

Petition to review an order of the Board of Immigration Appeals finding petitioner deportable as an alien excludable at the time of entry, 8 U.S.C. § 1251(a)(1), 1181, and ineligible for relief from deportation under 8 U.S.C. § 1251(f).

Dismissed.

STANLEY MAILMAN, Fried & Mailman, New York, N.Y. (Benjamin Pesikoff, on the brief), *for petitioner.*

[fol. 46] JAMES G. GREILSHEIMER, Special Assistant United States Attorney, New York, N. Y. (Robert M. Morgenthau, United States Attorney for the Southern District of New York; Francis J. Lyons, special Assistant United States Attorney, on the brief), *for respondent.*

OPINION—July 14, 1965

KAUFMAN, *Circuit Judge:*

Mrs. Muriel May Scott, *née* Plummer, petitions for review of a Board of Immigration Appeals order directing

that she be deported as an alien excludable at the time of entry, 8 U.S.C. § 1251(a)(1), on the ground that she was not a "nonquota immigrant" as specified in her visa, 8 U.S.C. § 1181(a)(3). Although granted voluntary departure as a matter of administrative discretion, Mrs. Scott was deemed ineligible for relief under Section 241(f) of the Immigration Act, 8 U.S.C. § 1251(f), which provides that the statutory provisions relating to deportation of aliens excludable for procuring entry by fraud or misrepresentation do not apply "to an alien otherwise admissible at the time of entry who is the spouse, parent, or a child of a United States citizen or of an alien lawfully admitted for permanent residence."

The agency found that the petitioner was not a nonquota immigrant because her pre-entry marriage to an American citizen was void for immigration purposes and that she was ineligible for relief because not "otherwise admissible" under the oversubscribed quota of the country from which she came—Jamaica, British West Indies. Finding no error in the dual determinations of deportability and ineligibility for relief, we dismiss the petition for review.

[fol. 47] On December 24, 1957, in Jamaica, Muriel May Plummer, a native of that colony and a British subject, was formally married to Edward Lee Scott, a citizen of the United States. Since marriage to an American citizen confers nonquota status upon the alien spouse, Section 101(a)(27)(A), 8 U.S.C. § 1101(a)(27)(A), Mrs. Scott applied for and obtained a nonquota immigrant visa, and was later admitted to this country for permanent residence.

Some four years thereafter, in January 1962, the Immigration and Naturalization Service commenced deportation proceedings against Mrs. Scott, serving her with an order to show cause why she was not deportable as an alien excludable at entry because she was not a nonquota immigrant as specified in her visa. The supporting papers alleged that the petitioner had entered into a marriage ceremony with a United States citizen "solely for the purpose of qualifying for a nonquota immigrant visa, . . . without the intention of establishing a bona fide marital

relationship with him," and that such a relationship had not in fact been established.

At a hearing before a Special Inquiry Officer, the following undisputed facts were established on the basis of testimony by Mrs. Scott, her sister Mrs. Gloria Slade, and prior sworn statements by both. Mrs. Slade, who herself had entered the United States through a sham marriage, arranged with one Dudley Goulbourne for Muriel to be married to an American citizen. Goulbourne, who was to be paid $500 for his services,[1] travelled to the British crown colony with Jerome Lloyd, who served as Scott's proxy in the marriage ceremony performed with Muriel [fol. 48] in Kingston, Jamaica, on December 24, 1957.[2] Muriel had neither seen nor communicated with Scott or Lloyd before the ceremony and she concededly saw neither thereafter. Indeed, she did not know the identity of the intended proxy bridegroom until his arrival in Jamaica. Furthermore, it was admitted that Muriel never intended to live with Scott, that the marriage never was consummated, and that Muriel has lived continuously with her sister since arriving in the United States, receiving no support whatever from the man who was her husband in name only. Rather, the sole purpose of the marriage was to qualify Muriel for a nonquota immigrant visa as the spouse of an American citizen.

Based on these concessions, the Special Inquiry Officer found more than ample support in the record for the Service's contention that the marriage—contracted solely for immigration purposes with no intention of establishing a bona fide conjugal relationship—could not confer nonquota status upon Mrs. Scott. The Board of Immigration Appeals sustained the finding that Mrs. Scott was

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[1] Goulbourne, who received only $200 of the promised fee, subsequently pleaded guilty to charges of unlawfully encouraging and inducing the entry into the United States of aliens not lawfully entitled to enter.

[2] Arguably, the Plummer-Scott marriage, with Llyod as proxy, was void from the inception, for at the time of the ceremony Lloyd allegedly was already married. The Service did not, however, introduce direct evidence on this point at the deportation hearing and therefore does not press the matter.

deportable because she was not, as her visa specified, a nonquota immigrant. The Board also rejected the alien's claim that she was entitled to relief under Section 241 (f), which would apply if (1) she was the parent of a United States citizen, (2) her excludability was based on having procured a visa or entry by fraud or misrepresentation, and (3) she was "otherwise admissible" at the time of her entry. The first prerequisite was met by the alien because a child was born to Mrs. Scott, out of [fol. 49] wedlock, in New York City in 1962.[3] But, even if Mrs. Scott had been found deportable for fraud in obtaining entry into this country, rather than for not being a nonquota immigrant as specified, she would be nonetheless *not* "otherwise admissible at the time of entry" "because she was actually a quota immigrant and entered as a nonquota immigrant." And, as the Board's opinion indicated, entry as a quota immigrant from Jamaica was impossible because at the time of Mrs. Scott's entry the British subquota for the crown colony, Section 202(c), 8 U.S.C. § 1152(c), was greatly oversubscribed. The Board therefore ordered Mrs. Scott deported to Jamaica, although it endorsed the Special Inquiry Officer's grant of the privilege of voluntary departure. This petition for review, pursuant to Section 106 of the Immigration Act, 8 U.S.C. (1964 ed.) § 1105a, followed.

I.

Mrs. Scott contends initially that she is not subject to deportation because the Government failed to allege or prove the predicate for a finding of nonquota status—an invalid marriage. She claims, in essence, that because the marriage was not shown to be void under Jamaican law, the place where is was performed, it must be presumed valid. But the critical question, in our view, is not whether the purely ceremonial marriage was void in the abstract; rather, the issue is whether Mrs. Scott was the

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[3] The father of the child is neither Scott nor Lloyd. The natural mother of an illegitimate child qualifies as a parent under the statutory definitions, Section 101(b)(1) and (2), 8 U. S. C. § 1101 (b)(1) and (2).

"spouse" of an American citizen and thus admissible for permanent residence as a nonquota immigrant. We agree with the Board of Immigration Appeals' conclusion that a [fol. 50] marriage contracted solely to circumvent the immigration laws, with no intention that the parties will ever live together, does not suffice to make the alien the "spouse" of a United States citizen.

Petitioner's argument overlooks the lesson taught by the Supreme Court in *Lutwak* v. *United States*, 344 U.S. 604 (1953): When questioned in this context, the marriage relationship must be judged in terms of the immigration statutes rather than the law of the place where the empty ceremony was performed. The *Lutwak* case was concerned with charges of criminal conspiracy to defraud the Government by obtaining the illegal entry of three aliens under the War Brides Act as the spouses of honorably discharged veterans. The Court treated the validity of the marriages under foreign law as immaterial because "the common understanding of a marriage, which Congress must have had in mind when it made provision for 'alien *spouses*' in the War Brides Act, is that the two parties have undertaken to establish a life together and assume certain duties and obligations." 344 U.S. at 611. Certainly Congress did not establish nonquota status "to provide aliens with an easy means of circumventing the quota system by false marriages in which neither of the parties ever intended to enter into the marital relationship." *Ibid.* See also *United States* v. *Rubinstein*, 151 F. 2d 915 (2 Cir.), *cert. denied*, 326 U.S. 766 (1945); *Matter of M—*, 8 I. & N. Dec. 217 (1958).

The same functional approach—a concern with the legal consequences of the marriage for immigration purposes—applies here, *a fortiori*, because we are not concerned with a criminal statute that must be strictly construed. See, e.g., *Yates* v. *United States*, 354 U.S. 298, 303-11 (1957); *United States* v. *Wiltberger*, 18 U.S. (5 Wheat.) [fol. 51] 76, 95-96 (1820). As we said in *United States* v. *Diogo*, 320 F. 2d 898, 905 (2 Cir. 1963), "Congress may adopt a federal standard of *bona fides* for the limited purpose of denying immigration priorities to persons whose marriages do not meet that standard" as embodied

in the legislative understanding of the term "spouse" in the Immigration Act. Since there is no doubt that Mrs. Scott's sham marriage did not create a bona fide husband-wife relationship, we hold that she was not the "spouse" of an American citizen under the Immigration Act and, therefore, not entitled to nonquota status.

II.

Petitioner contends, alternatively that she is eligible for relief from deportation under Section 241(f), which, as we have indicated, would apply to her as the parent of a United States citizen if (a) she is being deported for having procured her entry into this country by fraud or misrepresentation and (b) she was "otherwise admissible at the time of entry." Technically, of course, Mrs. Scott is being deported simply because she was not a "nonquota immigrant" as specified in her visa. But the Government in effect concedes that she meets the first prerequisite noted above since she was excludable at the time of entry for having procured her visa by fraud or misrepresentation, 8 U.S.C. § 1182(a)(19). Indeed, the Board of Immigration Appeals, in construing the predecessor of Section 241(f)—Section 7 of the Act of September 11, 1957, 71 Stat. 641, 8 U.S.C. (1958 ed.) § 1251a—held that the exculpatory provision comprehends aliens not precisely within its terms, stating that "the section of the law under which the charge [for deportability] is laid is immaterial." *Matter of S—*, 7 I. & N. Dec. 715, 717 (1958).
[fol. 52] The interesting question, therefore, is whether, even if Mrs. Scott had been (or was in effect) found deportable for having procured her visa by fraud or misrepresentation, she was "otherwise admissible at the time of entry." She contends that once the element of fraud is eliminated, no other provision of the Immigration Act makes her inadmissible because the phrase "otherwise admissible at the time of entry" in Section 241(f) refers only to qualitative grounds of inadmissibility, as set forth in Section 211, 8 U.S.C. § 1182 (*e.g.*, aliens who are feeble-minded, drug addicts, or have been convicted of crimes involving moral turpitude), and not to quantitative or documentary standards tied to the quota system. We

do not believe that the distinction we are asked to draw is supported by the statutory language when viewed in its proper context, the legislative history, or administrative and judicial interpretations of the relief provision.

Petitioner perforce concedes that nothing in the language of Section 241(f) indicates that the phrase "otherwise admissible" requires only that the alien should have met the qualitative requirements for entry. Rather, she points to the use of the same phrase in Section 211, 8 U.S.C. § 1181, and argues that we are concerned with a "term of art" referable only to qualitive standards of admissibility and not documentary or quota requirements. As applied to Section 211, which details the visa, passport and other documentary requirements for immigrants as well as applicable quota and nonquota rules, this distinction undoubtedly is sound. Indeed, the Government concedes that the first four subdivisions of Section 211(a) pertain to documentary requirements and that the context requires defining "otherwise admissible" in subdivision (5) as pertaining to quantitative admissibility. This does [fol. 53] not mean, however, that the phrase "otherwise admissible" must of necessity be similarly construed when it arises in a wholly different context in the immigration law, designed to cover different problems. Thus, the same phrase in Section 241(f) encompasses all grounds of inadmissibility other than fraud, including quantitative standards. Any other interpretation is likely to invite frustration and wholesale evasion of the quota system which has been repeatedly endorsed by Congress since its adoption as a fundamental part of our immigration laws in 1921. If "otherwise admissible" is limited to prevent invocation of the relief provision only by the insane, prostitutes, Communist Party members, and other qualitatively proscribed persons, the door will be opened for individuals from countries with low but oversubscribed quotas easily to circumvent and thwart this country's immigration policy. Moreover, if Congress intended to excuse not only fraud but compliance with the quota regime, it could have done so with clarity, as in the War Brides Act, 59 Stat. 659 (1945), 8 U.S.C. (1946 ed.) § 232, where the intention to remove documentary re-

quirements was explicitly expressed in a statute which, like Section 241(f), included an "if otherwise admissible" proviso.

The legislative history, although certainly not determinative, lends support to the Government's interpretation of "otherwise admissible" in Section 241(f). Thus, in opening debate on Section 7 of the 1957 Act, the predecessor of Section 241(f), Senator Eastland assured his colleagues that "the bill does not modify the national origins quota provisions." 103 Cong. Rec. 15487 (Aug. 21, 1957). Similar statements were made in the lower chamber by Congressmen Celler and Chelf. 103 Cong. Rec. [fol. 54] 16300, 16305-06 (Aug. 28, 1957). Moreover, when Section 7 of the 1957 Act was carried forward into the present Section 241(f), in Section 16 of the Act of September 26, 1961, 75 Stat. 655, Congress significantly abandoned a limited exception to the documentary provisions for certain displaced persons and refugees. This deletion of the special benefit provision—originally inserted to protect those aliens who misrepresented their nationality or place of birth because they feared repatriation to Communist-dominated countries (but not those who engaged in misrepresentation to evade the quota restrictions), House Rep. No. 1086, 87th Cong., 1st Sess., p. 37 (1961)—indicates that all aliens who now seek to invoke the fraud-excusing provisions of Section 241(f) must surmount quantitative as well as qualitative hurdles.

It is also significant that little more than a year after the enactment of Section 241(f)'s predecessor, the Board of Immigration Appeals, in *Matter of D'O—*, 8 I. & N. Dec. 215 (1958), interpreted "otherwise admissible" as conditioned upon compliance with the quota requirements. That case involved an Italian citizen who fraudulently obtained a nonquota immigrant visa as a native of Argentina, a nonquota country. 8 U.S.C. § 1101(a)(27)(c). The Board, noting that nothing in the 1957 Act indicated a legislative intention to eliminate the careful protection built into the immigration laws regarding the quota system, held that the relief provision excusing fraud was inapplicable because the alien was not otherwise admissible under the Italian quota. This limited administrative

view of the scope of the ameliorative provision was not questioned when Congress reenacted the section in 1961 (with the further minor limitation noted above), and, in- [fol. 55] deed, the new version was said to codify existing law. House Rep. No. 1086, 87th Cong., Sess., p. 37 (1961).[4]

Finally, the Government's interpretation of "otherwise admissible" to include quantitative as well as qualitative requirements does not deprive Section 241(f) of all practical value, as the petitioner would have us believe. She contends that the section would help no one if it did not also waive some underlying ground of inadmissibility because where there is a material fraud or misrepresentation, there is generally an underlying ground for inadmissibility. But the weakness in this argument is the necessary qualifying word "generally"; the interpretation we endorse permits relief where the alien is excludable for fraud but not for the underlying offense. Thus, in *Matter of Mazar*, 10 I. & N. Dec. — (1962), Section 241(f) served to suspend the deportation of an alien excludable for willfully concealing his Communist Party membership but not otherwise inadmissible because that membership was involuntary under Section 212a(28)(I). Similarly, relief would be available to an alien who concealed a past conviction for a crime not involving moral turpitude, for such a conviction would not make the alien qualitatively inadmissible.

We therefore agree with the Board of Immigration Appeals that Mrs. Scott was not "otherwise admissible at the

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[4] Concededly, most judicial decisions interpreting relief measures similar to Section 241(f) involve situations where the alien was otherwise inadmissible for qualitative reasons. See, e.g., *Langhammer* v. *Hamilton*, 295 F. 2d 642 (5 Cir. 1961) (membership in foreign communist party); *Bonham* v. *Bouiss*, 161 F. 2d 678 (9 Cir. 1947) (racial exclusion and immortality). The Government, however, responding to petitioner's inability to find any judicial decision where the term "otherwise admissible" or any comparable phrase was held to relate to quantitative or documentary standards of admissibility, referred us to *Bufalino* v. *Holland*, 277 F. 2d 270 (3 Cir.), *cert. denied*, 364 U.S. 863 (1960), a case in which, it is now conceded, relief was denied under Section 241(f)'s predecessor because the alien lacked proper documentation.

[fol. 56] time of entry," within the meaning of Section 241(f), because the British subquota for Jamaica was oversubscribed when she obtained her visa and when she entered this country.

Dismissed.

SMITH, *Circuit Judge* (dissenting):

I dissent. While I agree that the purported marriage was invalid for immigration purposes, I think that we should give 241(f) an interpretation in keeping with its humanitarian purpose of ameliorating the harshness of the deportation statutes as applied to the families of citizens. Interpreting "otherwise admissible" as referring to qualitative tests rather than quota numbers would properly carry out the purpose of the Act in cases such as this, and there is no solid evidence that the Congress intended so narrow an application as that adopted, in effect carving out an exception to the relief where the fraud involved non-quota status.

[fol. 57]

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

* * * *

Present:

HON. J. EDWARD LUMBARD, *Chief Judge*,
HON. J. JOSEPH SMITH,
HON. IRVING R. KAUFMAN,
Circuit Judges.

MURIEL MAY SCOTT, nee PLUMMER, PETITIONER

v.

IMMIGRATION AND NATURALIZATION SERVICE,
RESPONDENT

JUDGMENT—July 14, 1965

A petition for review of an order of the Board of Immigration Appeals,

This cause came on to be heard on the Administrative Record of the Immigration and Naturalization Service and was argued by counsel.

On consideration whereof, it is now hereby ordered, adjudged and decreed that the petition be and it hereby is dismissed.

A. DANIEL FUSARO
Clerk

[fol. 58] [File Endorsement Omitted]

[fol. 59]

[Clerk's Certificate to foregoing transcript omitted in printing.]

[fol. 60]

SUPREME COURT OF THE UNITED STATES

No. ....., October Term, 1965

MURIEL MAY SCOTT, ETC., PETITIONER

v.

IMMIGRATION AND NATURALIZATION SERVICE

ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF CERITORIARI—October 13, 1965

UPON CONSIDERATION of the application of counsel for petitioner,

IT IS ORDERED that the time for filing a petition for writ of certiorari in the above-entitled cause be, and the same is hereby, extended to and including December 11th, 1965.

/s/ John M. Harlan
Associate Justice of the Supreme
Court of the United States

Dated this 13th day of October, 1965.

[fol. 61]

SUPREME COURT OF THE UNITED STATES

No. 1007 Misc., October Term, 1965

MURIEL MAY SCOTT, nee PLUMMER, PETITIONER

v.

IMMIGRATION AND NATURALIZATION SERVICE

On petition for writ of Certiorari to the United States Circuit Court of Appeals for the Second Circuit.

ORDER GRANTING MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND GRANTING PETITION FOR WRIT OF CERTIORARI

On consideration of the motion for leave to proceed herein in forma pauperis and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed in forma pauperis be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby, granted. The case is transferred to the appellate docket as No. 1137, placed on the summary calendar, and set for oral argument immediately following No. 898.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

March 21, 1966

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